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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 604,474	06 27 2000	Wordell Nelson	LD 11114	5090

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EXAMINER

TON, ANABEL

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 07 22 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,474

Applicant(s)

NELSON ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

2. The indicated allowability of claims 6-9, 18-21 is withdrawn in view of the newly discovered reference(s) to the claimed features. Rejections based on the newly cited reference(s) follow.

Claim Objections

3. Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 18 recites the same subject matter as claim 12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,3,4,6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (6,024,471) and further in view of Sellers (3,160,722).

6. McDermott discloses a flashlight assembly comprising a housing (50), at least one light emitting diode mounted within the housing generating an LED beam and serving as a light source for the flashlight (col.7 lines 34-35) and an adjustable switch coupled to a variable resistor for controlling the level of optical output (16,col.1 lines 47-67). Sellers disclose a flashlight with a reflector extending from an end of the housing for focusing and dispersing the LED beam to a desired light contour. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a reflector to the flashlight of McDermott, since reflectors in flashlight assemblies (and many other lighting devices) are old and well known in the art for the purpose of promoting a desired light output from the light source. Such an addition or feature would require ordinary skill in the art to provide to a flashlight.

- With regards to the reflector being selectively adjustable for focusing and dispersing the LED beam as desired, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an adjustable reflector in a flashlight assembly, since it has been held that the provision of adjustability where needed involves only routine skill in the art. In re Steven, 101 USPQ 284 (CCPA 1954). Furthermore, such a feature is old and well known in the art for selectively focusing the emitted light from the source (please see cited prior art Lai, Halasz et al, which both clearly teach of such an embodiment).

- McDermott discloses an adjustable switch coupled to a variable resistor (figs 2 and 24, cols 7-8);
- McDermott discloses the switch is adapted to selectively turn on and off any select number of the at least **one** LED thereby allowing a user to choose from several different levels of illumination; the switch operates as a step variable control having at least two distinct levels of illumination; The switch operates as a rheostat having continuous variable control thereby allowing selective desired levels of illumination; an electronic regulator enclosed by the housing for allowing the LED beam to remain at a constant and desired level;

7. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott in further view of Sellers as applied to claim1 above, and further in view of Lebens et al (6,095,661).

8. With regards to the flashlight comprising a plurality of LED's arranges concentrically around a single LED thereby forming a substantially circular configuration, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have such a configuration, since as taught by Lebens, such an arrangement is old and well known.

9. Lebens discloses a dynamic pulse control system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a dynamic

pulse control system, as taught by Lebens, since LED illuminated systems require such a control system to maintain an average light output of a desired predetermined level.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott in further view of Sellers as applied to claim 1 above and further in view of Halasz et al (6,193,388).

11. With regards to the reflector being fixed and the LED serving as the light source is selectively movable, Halasz discloses such a feature for the purpose of emitting a desired light output (claim 6, col. 11 lines 21-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a movable light source relative to the reflector in a flashlight assembly, since as taught by Halasz et al such a feature is old and well known in the art for the purpose of providing a desired light output.

12. Claims 12-15, 17, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halasz et al and further in view of McDermott.

13. Halasz discloses a housing having at least one light emitting diode mounted within the housing generating a mechanically adjustable LED beam and serving as a light source, a reflector extending from an end of the housing for focusing and dispersing the at least one LED to a desired light contour being selectively adjustable, the LED is selectively movable and the reflector is fixed. McDermott discloses an adjustable switch coupled to a variable resistor for controlling the level of optical output. It would

have been obvious to one of ordinary skill in the art at the time the invention was made to have an adjustable switch in a flashlight assembly as that of Halasz, since as taught by McDermott, such a switch is beneficial for controlling a desired light output.

14. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Halasz et al and further in view of McDermott et al as applied to claim 12 above, and further in view of Lebens et al.

15. With regards to the flashlight comprising a plurality of LED's arranged concentrically around a single LED thereby forming a substantially circular configuration, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have such a configuration, since as taught by Lebens, such an arrangement is old and well known.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lai.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton
Examiner
Art Unit 2875

AMT
June 26, 2002


Stephen Husar
Primary Examiner